



DEPARTMENT OF EMPLOYMENT SERVICES  
OFFICE OF WAGE-HOUR COMPLIANCE

2020

ACCRUED SICK &  
SAFE LEAVE ACT  
STUDY REPORT



DISTRICT OF COLUMBIA  
DEPARTMENT OF  
EMPLOYMENT SERVICES



GOVERNMENT OF THE  
DISTRICT OF COLUMBIA  
MURIEL BOWSER, MAYOR

# CONTENTS

ACRONYM LIST	1
EXECUTIVE SUMMARY	1
KEY FINDINGS	1
<b>Survey Results</b>	1
<b>Focus Groups/Follow-up Interviews</b>	1
<b>Staff Interviews</b>	1
RECOMMENDATIONS	1
INTRODUCTION	2
BACKGROUND	2
<b>The Accrued Sick and Safe Leave Act of 2008</b>	2
<b>The Earned Sick and Safe Leave Amendment Act of 2013</b>	3
<b>The COVID-19 Response Supplemental Emergency Amendment Act of 2020</b>	3
OBJECTIVES & ADDITIONAL RESEARCH QUESTIONS	3
METHODOLOGY	4
SURVEY RESULTS	5
BUSINESS PERSPECTIVE	5
<b>Compliance with ASSLA/ESSLA</b>	7
<b>Economic Impact</b>	9
EMPLOYEE PERSPECTIVE	12
<b>Employee Profile</b>	12
<b>Compliance with ASSLA</b>	12
<b>COVID-19 Impact (Employee Survey)</b>	13
KEY FINDINGS:	14
OWH INVESTIGATIONS	14
FOCUS GROUPS AND ONE-ON-ONE INTERVIEWS	14
<b>Overview</b>	14
<b>Introduction</b>	15
<b>Methodology</b>	15
<b>Key Findings</b>	16
<b>Childcare Industry</b>	16
Part I: Foundations of the Business	17
Part II: Assessing Knowledge and Understanding of ASSLA	17
Part III: Enforcement and Impact	17
<b>Healthcare Workers</b>	18
Part I: Foundations of the Business	18
Part II: Assessing Knowledge and Understanding of ASSLA	18
Part III: Enforcement and Impact	19
<b>Construction and Security</b>	19
Part I: Foundations of the Business	19
Part II: Assessing Knowledge and Understanding of ASSLA	19
Part III: Enforcement and Impact	20
DISTRICT GOVERNMENT INTERVIEWS	20
OVERVIEW	20
INTRODUCTION	21
DOES INTERVIEW:	21
<b>Roles, Relationships, and Collaboration with Other Agencies</b>	21
Agency Performance & Processes	22
COVID-19 Enhancements	22
DCHR INTERVIEW	23

<b>Roles, Responsibilities, and Engagements</b>	<b>23</b>
<b>Agency Performance and Processes</b>	<b>23</b>
COVID-19 Enhancements	23
KEY FINDINGS	23
PUBLIC EDUCATION EFFORTS	24
RECOMMENDATIONS	24
Recommendation #1	24
Recommendation #2	24
FURTHER RESEARCH NEEDED	25
<b>Appendix A: Survey Questions and Responses</b>	<b>26</b>
Demographic Questions	26
COVID-19 Paid Sick Leave	30
Business Owner Questions	31
COVID-19 Paid Sick Leave	35
<b>Appendix B: Focus Group Questions</b>	<b>37</b>
<b>Appendix C: Interview Questions</b>	<b>39</b>

## ACRONYM LIST

ASSLA	Accrued Sick and Safe Leave Act of 2008
BLS	Bureau of Labor Statistics
DC	District of Columbia
DCHR	Department of Human Resources
DCRA	Department of Consumer and Regulatory Affairs
DOES	Department of Employment Services
DSLBD	Department of Small and Local Business Development
ESSLA	Earned Sick and Safe Leave Amendment Act of 2013
FMLA	Family Medical Leave Act
HR	Human Resources
OAG	Office of the Attorney General
OAH	Office of Administrative Hearings
OWH	Office of Wage and Hour
PTO	Paid Time Off

## EXECUTIVE SUMMARY

From May 19, 2021, to June 11, 2021, Bayne Limited Liability Company conducted a web-based survey (N=1313), three focus groups, two semi-structured interviews with officials from the Government of District of Columbia (District Government), and three follow-up interviews with employees from the childcare industry. The research was conducted in order to support Section 16 of The Accrued Sick and Safe Leave Act of 2008 (ASSLA) which requires the District to conduct an annual audit of a sample of District businesses to evaluate (1) businesses' compliance with the posting requirements, and (2) whether companies are using staffing patterns to circumvent the intention of ASSLA, the Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA) or the COVID-19 Emergency Response Act of 2020 (the COVID-19 Emergency Act) (collectively, the Acts).

Additionally, the research sought to identify any impact the Acts have had on the private sector and gauge the overall effectiveness of the District's efforts to enforce compliance. The research team conducted more in-depth research into the childcare, construction, healthcare, and security industries in order to evaluate whether industry-specific factors impacted compliance.

The survey included three optional demographic questions and one required eligibility question. Depending on each respondent's answers, the online survey would present either employee-track questions, business-track questions, or a statement regarding the qualifications for participating in the survey. The employee track included 11-19 required questions, depending upon a participant's responses, and the business representative track included 19-27 required questions.

The sampling frame consisted of owners and representatives of businesses that operated in the District during 2020 and individuals who were employed in the District during 2020. The survey was distributed via email and SMS messaging to a database of District businesses compiled from the Department of Consumer and Regulatory Affairs (DCRA) database, and a list of registered voters acquired from the DC Board of Elections. Additional efforts to increase participation included utilizing community listservs and social media-based outreach. The survey was distributed to more than 70,000 contacts.

Overall, the survey fielded 1,313 responses. Out of these, 110 were ineligible to complete the survey because they did not own, manage, or work for a business or organization in the District in 2020. Another 189 participants started the survey but did not provide sufficient feedback. In sum, there were 1,014 completed responses.

Focus group participants were recruited through an interest question at the end of the survey and through industry-specific outreach. The purpose of the focus groups and interviews was to gain a better understanding of ASSLA compliance in the focus industries and assess if there were unique challenges in each industry that impacted companies' ability to comply with the law.

The research team conducted semi-structured interviews with representatives from the Department of Employment Services (DOES) and the Department of Human Resources (DCHR). Representatives from DCRA and the Office of the Attorney General (OAG) opted not to participate in the interviews this year.

## KEY FINDINGS

### Survey Results

- There is a strong correlation between years in operation and ASSLA compliance for businesses.
- Employees reported much lower levels of compliance with ASSLA than business owners for both the ASSLA and COVID-19 Emergency Act provisions.
- Less than half of employees were informed about their right to access paid leave under ASSLA or the COVID-19 Emergency Act.

### Focus Groups/Follow-up Interviews

- Employees in the healthcare industry feel disempowered when using leave or taking time off because they fear being laid off or becoming unemployed. This can lead to employee burnout.
- During the COVID-19 pandemic, employees in the childcare, security, and healthcare industries continued to work in person due to lack of coverage, fear of losing their jobs, and unattainable leave benefits.
- Participants noted that information about ASSLA is provided at a minimum via hard copies of employee handbooks upon an initial hire and/or is made accessible to employees through email, but they feel there is a lack of ASSLA-related information or training materials available to them.
- Employees expressed a universally strong lack of knowledge about ASSLA across all industries, as well as confusion regarding how ASSLA applies to and impacts employer leave policies.
- The timeframe between a request for leave and its approval proves to be problematic across most industries, as small- and medium-sized firms do not have effective processes to ensure employees receive approvals quickly. This proves especially challenging in the childcare and healthcare industries.

### Staff Interviews

- DOES made new and innovative improvements to educate employers and workers about ASSLA in-person, virtually, and through various social media and advertising campaigns.
- DCHR's automated system works effectively to manage leave for District Government employees and the agency has not had issues with complying with ASSLA regulations.
- Overall, the District has done a sufficient job in addressing ASSLA-related claims when reported by employees.

## RECOMMENDATIONS

**Recommendation #1:** Strengthen communication efforts with business owners and employees.

**Recommendation #2:** Develop employer and employee training tools

## INTRODUCTION

The Accrued Sick and Safe Leave Act of 2008 (ASSLA), as amended by the Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA), collectively “the Acts,” enables full-time and part-time employees who spend 50% or more of their time working in the District of Columbia (“the District” or DC), to receive paid time off (PTO) because of a personal medical condition, to care for ill family members, receive medical care for themselves or their family members, or for issues pertaining to domestic violence or sexual abuse. ASSLA took effect in November 2008. ESSLA amended ASSLA to expand the definition of protected employees, strengthen remedies and procedures available to employees, and establish an outreach program to inform the public about ASSLA.

Section 16 of ASSLA requires the District to conduct an annual audit of a sample of District businesses to determine (1) the compliance level of businesses with the posting requirements, and (2) whether companies are using staffing patterns to circumvent the intention of the Acts.

In April 2021, Bayne Limited Liability Company (Bayne) was contracted by the DC Department of Employment Services (DOES) to conduct a study on both compliance with and the impacts of the Acts. Bayne sought to build on previous reports by further focusing on the experiences of District employees. Prior to the 2019 report, the annual audits focused primarily on the perspective of business owners and principals, and feedback from government officials. For the 2019 audit, Bayne also solicited feedback from employees via the survey.

The 2020 ASSLA survey included similar questions for both employees and business owners, to identify issues and areas where there were significant differences between the perspectives of the two groups. In this report, we will provide background on the law, describe the objectives and methodology of the study, and present our findings and recommendations.

## BACKGROUND

### **The Accrued Sick and Safe Leave Act of 2008**

In March 2008, the DC Council passed ASSLA, which required employers to provide PTO to all employees who spend at least 50% of their time in the District. After going through the mandatory congressional review process and being signed by former DC Mayor Adrian Fenty, the law took effect on November 13, 2008.

ASSLA requires that employers must provide a certain amount of accrued paid leave to their employees based on business size:

- An employer with 100 or more employees must provide 1 hour of paid leave for every 37 hours worked, not to exceed 7 days per year;
- An employer with 25 to 99 employees must provide 1 hour of paid leave for every 43 hours worked, not to exceed 5 days per year; and
- An employer with 24 or fewer employees must provide 1 hour of paid leave for every 87 hours worked, not to exceed 3 days per year.

(Note: Employers are not required to have separate “sick leave” and “personal leave” policies. They can combine all leave types into one policy, as long as it meets the minimum requirements specified in ASSLA.)

Under ASSLA, businesses were not required to provide paid leave to independent contractors, full-time students who work less than 24 hours per week at the college or university that they attend, healthcare workers who participate in premium pay programs, tipped restaurant employees, or employees who work less than 1,000 hours per year.

Furthermore, while employees began accruing sick leave from the first day of employment, they were not eligible to use their sick leave until after completing their first year of employment.

ASSLA allows workers to use their mandated leave to care for themselves or a family member. For the purposes of ASSLA, a family member is defined as a spouse or domestic partner, parent, parent of a spouse, children or grandchildren, spouses of children, siblings, and the spouses of siblings.

Under ASSLA, a worker's unused sick leave is carried over from year to year, but employers are not required to pay a worker more than the maximum amount of sick leave allowed for that year, in that year.

### **The Earned Sick and Safe Leave Amendment Act of 2013**

In February 2013, the DC Council passed ESSLA. The law became effective in 2014 and modified ASSLA in a number of significant ways. ESSLA reduced the probationary period for use of sick leave from 12 months to 90 days. It also extended protection to tipped restaurant wait staff and bartenders who receive tips, commissions, or other gratuities and receive a base wage that is below the DC minimum wage.

### **The COVID-19 Response Supplemental Emergency Amendment Act of 2020**

On April 10, 2020, the District of Columbia enacted the COVID-19 Response Supplemental Emergency Amendment Act of 2020 (the COVID-19 Emergency Act), which temporarily amended ASSLA to require employers that are not in the healthcare industry and have 50 to 499 employees who work in the District of Columbia to offer up to 2 weeks of paid leave for employees for certain reasons related to COVID-19.

## **OBJECTIVES & ADDITIONAL RESEARCH QUESTIONS**

The primary purpose of this study is to comply with Section 16 of ASSLA which requires an audit of a sample of DC businesses to determine their compliance with posting requirements, and whether companies are utilizing staffing patterns to circumvent ASSLA's intent. The two primary objectives of this study were to:

1. Gauge the compliance level of DC-based businesses with the requirement to post a notice advising employees about ASSLA.
2. Determine if businesses are using staffing patterns to circumvent the intent of the law.

Additionally, this study seeks to accomplish the following secondary objectives:

1. Assess the economic impact of ASSLA on the private sector.
2. Determine whether the Department of Employment Services and other agencies are adequately protecting workers' rights and enforcing ASSLA's provisions.
3. Provide additional insights about compliance in four focus industries (construction, childcare, healthcare and security)
4. Determine if there are significant differences between employee and employer perspectives of both the law and employer compliance levels in the District.

## METHODOLOGY

In order to achieve the objectives and answer the research questions mentioned in the previous section, Bayne used a multi-faceted approach to collect information. These sources included:

- A web-based survey for both DC businesses and employees
- Meeting with Office of Wage and Hour (OWH) grantees, the VETS Group Training Academy (The VETS Group), and the Ethiopian Community Center
- Three focus groups with employees
- Semi-structured interviews with District officials
- Semi-structured interviews with childcare workers

The Bayne Corporation developed a short web-based survey that included questions for both employees and business owners or executives (Appendix A). The survey included three optional demographic questions that captured racial identity, gender identity, and age. Respondents were then required to self-certify as an owner or manager of a District-based business in 2020 or that they were employed for more than 90 days in the District in 2020. Participants that asserted that neither condition applied to them were routed to a disqualification page and not allowed to continue the survey.

Participants who self-certified as employees were then asked 11 required questions and up to 8 follow-up questions that gathered information about their employment, pay, allotted leave, knowledge of their rights and compliance of their employer. These questions were only asked if a required previous question received a specific response.

Participants who self-certified as business owners or representatives were then asked 19 required questions and 8 follow-up questions that gathered information about their business, knowledge of the law, and compliance with the law. The follow-up questions were only asked if a relevant required question received a specific response.

The survey was initially distributed through email and text messages. DOES provided a spreadsheet that contained approximately 14,000 valid email addresses and 10,000 phone numbers. Each contact received email invitations on Mondays and Thursdays of each week between May 19, 2021, and June 11, 2021. A corresponding text message was to those business contacts whose primary number was connected to a mobile device. The project team also contacted over 100,000 registered DC voters to solicit their participation in the survey.

As a final effort to boost responses to the survey, the research team used Facebook, and LinkedIn to reach business owners and solicit their input in the survey. The research team reached out via email, social media, and community listservs to solicit employee participation in the survey.

The research team also hosted three focus groups and additional one-on-one interviews to conduct a more thorough analysis of the four focus industries (daycare, construction, healthcare and security).

The focus group questions (Appendix B) were developed based on the purpose of the study, feedback from the survey, and insights from conversations with DOES staff. Each focus group was conducted using a combination of predetermined questions and an opportunity for free-flowing, open discussion.

Participants were recruited and identified through two methods. Survey participants who identified themselves as employees were asked if they were interested and willing to participate in a focus group.

Participants were also recruited via listservs and social media ads.

The research team also decided to conduct three semi-structured interviews with representatives from the childcare industry due to poor attendance at the focus group. The purpose of the interviews was to gain a better understanding of ASSLA compliance and if there were unique challenges in the childcare industry that impacted companies' ability to comply with the law.

The research team conducted semi-structured interviews with representatives from DOES and the Department of Human Resources (DCHR). The purpose of the District Government interviews was to gain better understanding of the role each agency plays in enforcing ASSLA, how the agencies collaborate and communicate on ASSLA-related matters and the perception of officials on how the District is doing enforcing ASSLA.

In addition, the project team attended a meeting with OWH outreach grantees - the Vets Group and Ethiopian Community Center - to learn more about their outreach work to educate District workers over the past year.

## SURVEY RESULTS

This section of the report delivers the results of the online business and employee survey. The 2020 survey was modified to gauge the impact of the COVID-19 pandemic. The relevant timeframe is January 1, 2020 - December 31, 2020.

The following report is based on self-reported data from DC-based businesses and employees. This data was used to evaluate compliance with the requirements of ASSLA and the perceived economic impact of such compliance.

### Business Perspective

The sample size for business owners and operators is 238. Business characteristics, such as number of employees, years of operation, and revenue were used to develop a profile for the businesses reflected in the sample. Chart 1 shows the distribution of businesses by size for businesses that were included in the survey.<sup>1</sup> The majority of businesses that responded to the survey (63%) have between 1 and 24 employees. Approximately 3 percent of businesses surveyed had 100 or more employees. As Chart 2 shows, "Years in Operation" is distributed relatively uniformly. Approximately half of business respondents reported earning less than \$250,000 annually (Chart 3).

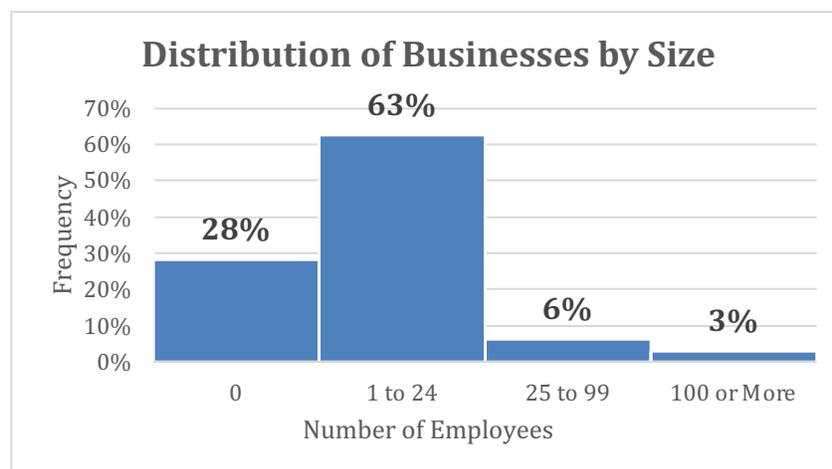


Chart 1: Distribution of Businesses by Size

<sup>1</sup> Figures Values less than 3 percent are not displayed due to space limitations.

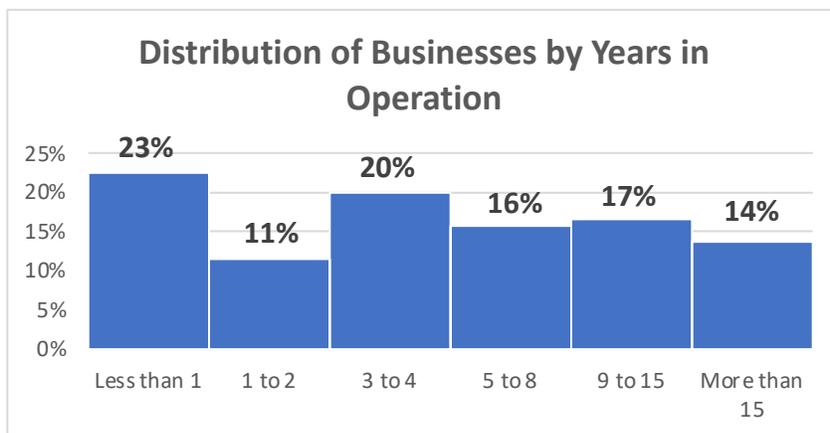


Chart 2: Distribution of Businesses by Years in Operation

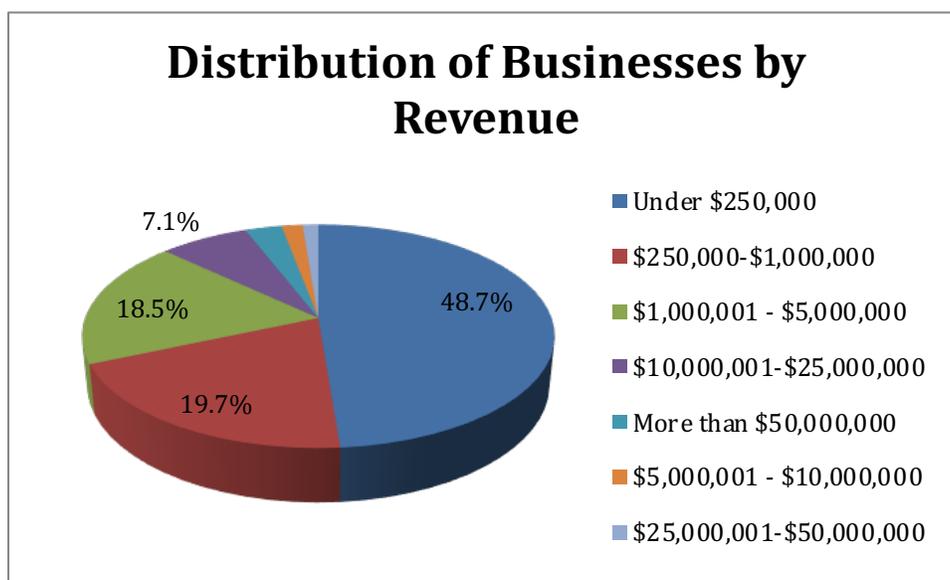


Chart 3: Distribution of Businesses by Revenue

The professional, scientific, and technical services industry is the most common industry among business respondents (Chart 4). Overall, the typical business respondent is a small business that has been operating approximately seven years.

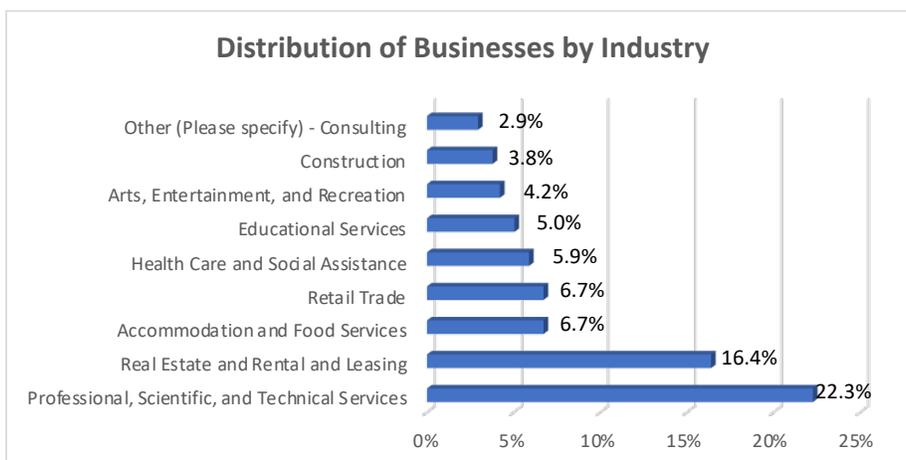


Chart 4: Distribution of Businesses by Industry

### Compliance with ASSLA/ESSLA

Compliance with the ASSLA poster requirements by businesses with at least one employee was 70.8 percent (Chart 5).

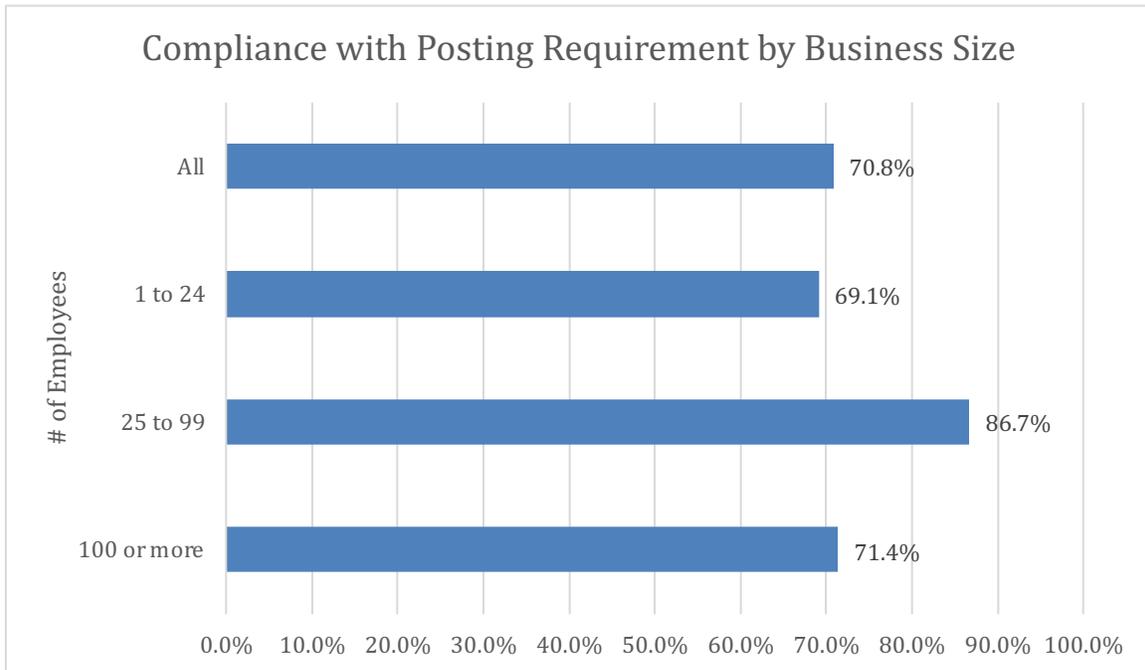


Chart 5: Compliance with Posting Requirement by Business Size

Employer respondents reported having leave benefits at relatively high rates (Chart 6). Among businesses with at least 1 employee, 17.6 percent made changes to their leave policy. This is consistent with the portion that made changes in 2019 (16.1 percent). When asked if measures were implemented to offset potential adverse impact, 6.5 percent of respondents answered affirmatively. This marks a 2.6 percent increase compared to the 2019 results.

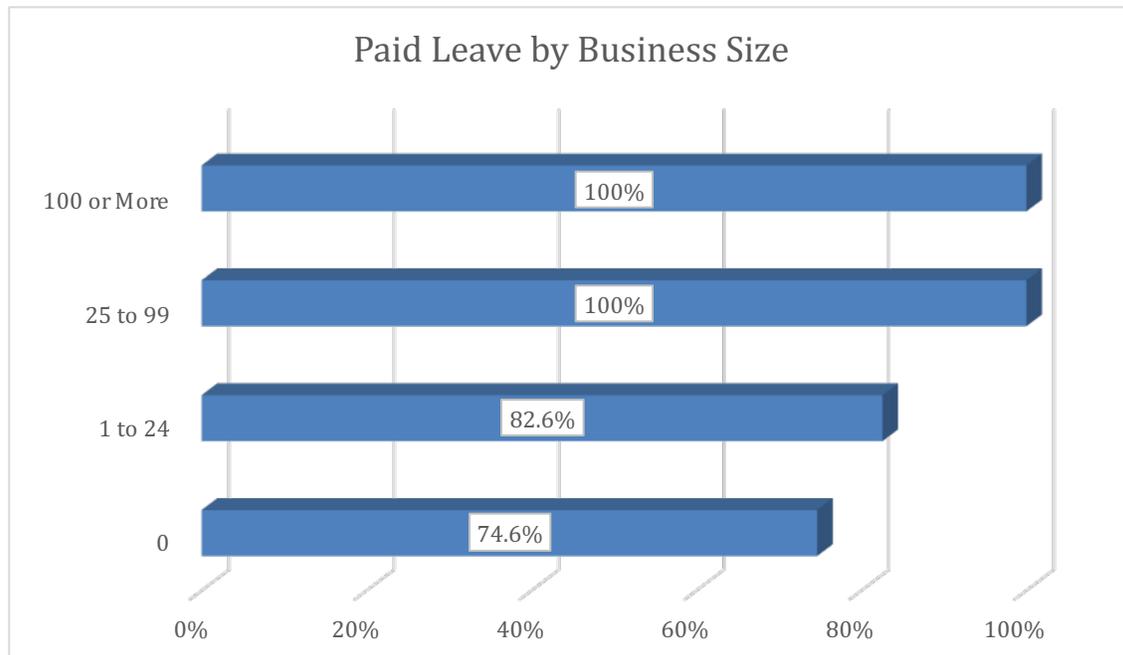


Chart 6: Paid Leave by Business Size

Looking at compliance by years in operation, the data suggests there is a strong correlation (0.904) between the length of time a company has been operating and compliance. Correlation is measured on a scale of 0 to 1 (or 0% to 100%). A high correlation coefficient indicates a strong relation between two variables. As Chart 7 shows, compliance with the posting requirements increases the longer a business has been in operation. This comparison reflects the entire sample of business respondents, including businesses with no employees. The data suggest a similar trend regarding leave benefits. The data also suggest that leave benefits are more prevalent the longer a business has been in business (Chart 8). On a year-over-year basis, the indicator which measures the portion of all business respondents that offer benefits increased nearly 30 percent.

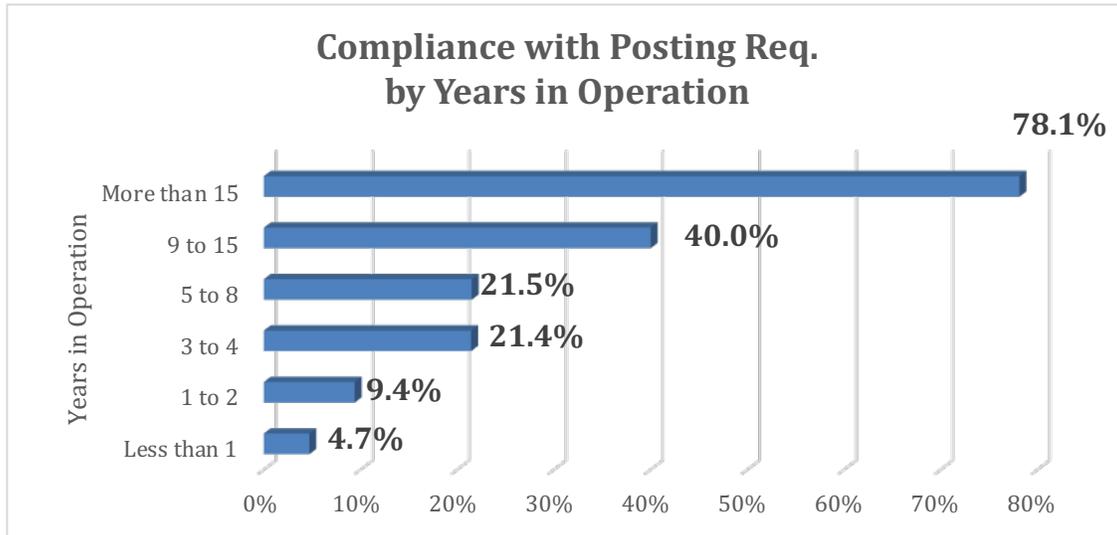


Chart 7: Compliance with Posting Req. by Years in Operation

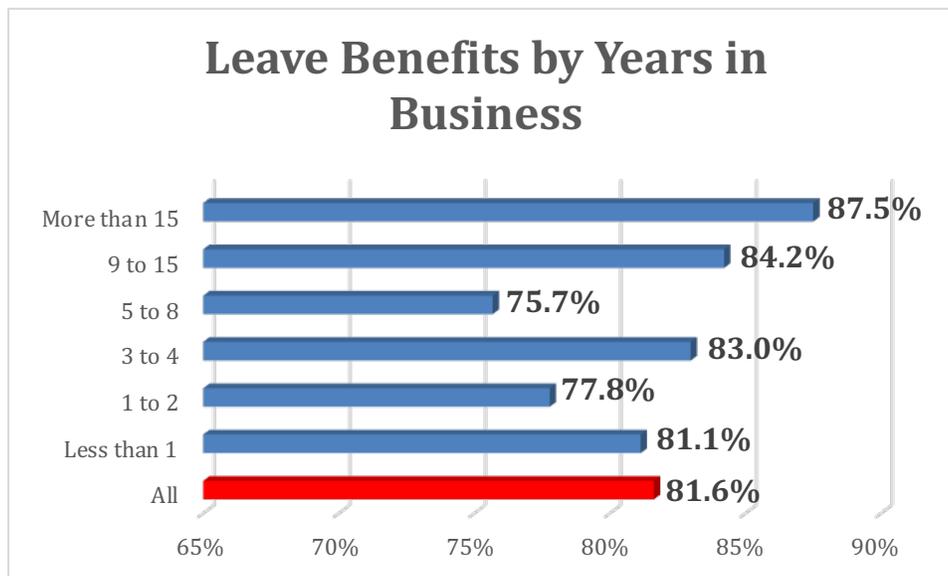


Chart 8: Leave Benefits by Years in Business

This research also explored compliance by industry. Thirty-one of the surveyed businesses self-identified as belonging to one of the focus industries. Compared to all businesses, businesses in the focus industries provided leave benefits at a rate that was 30.3 percent less than businesses overall (Chart 9)<sup>2</sup>. Businesses in this group accounted for approximately 13 percent of overall business respondents.

<sup>2</sup> Figures Values less than 3 percent are not displayed due to space Service sector is comprised of all industries excluding construction, wholesale trade, and retail trade.

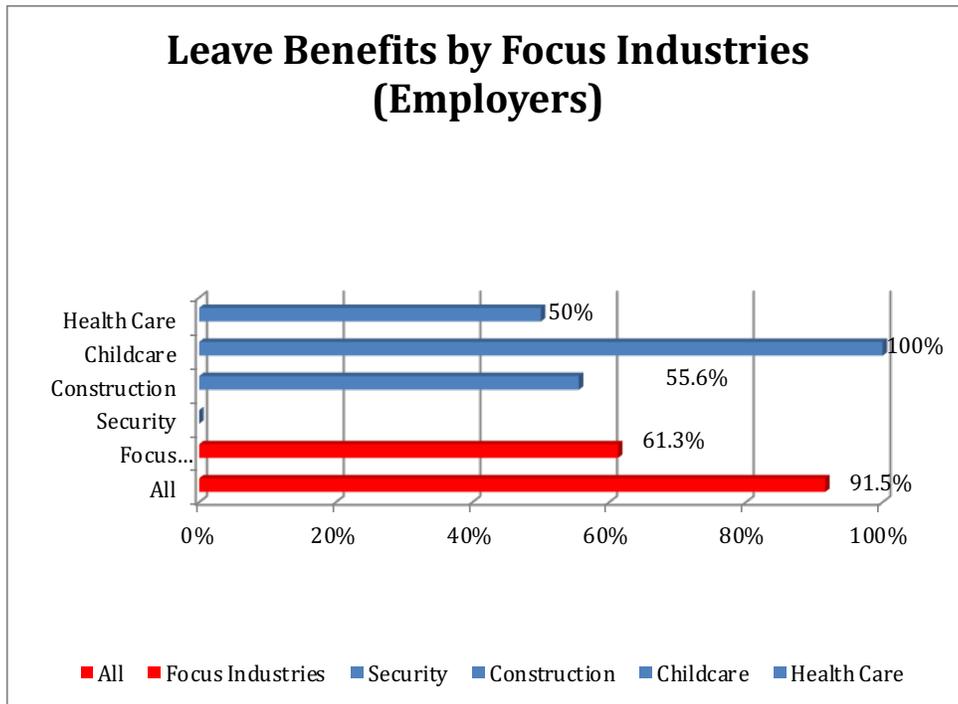


Chart 9: Leave Benefits by Focus Industries

## Economic Impact

Five questions were included to measure ASSLA’s economic impact on the District’s economy (Appendix A). These questions sought to determine the perceived impact ASSLA had on employee performance, employee turnover, and profitability, as well as what measures (if any) businesses implemented to adjust.

Chart 10 illustrates how businesses view ASSLA’s impact on employee performance. More than half of respondents for businesses with 25 to 99 employees and businesses with 100 or more employees indicated that employee performance has been about the same since the implementation of the Acts. It is also worth noting that approximately 30 percent of responses collected for each of these two business categories indicated that employee performance was much worse. Looking at small businesses with 1 to 24 employees, less than 10 percent responded that the Acts led to either better or much better employee performance.

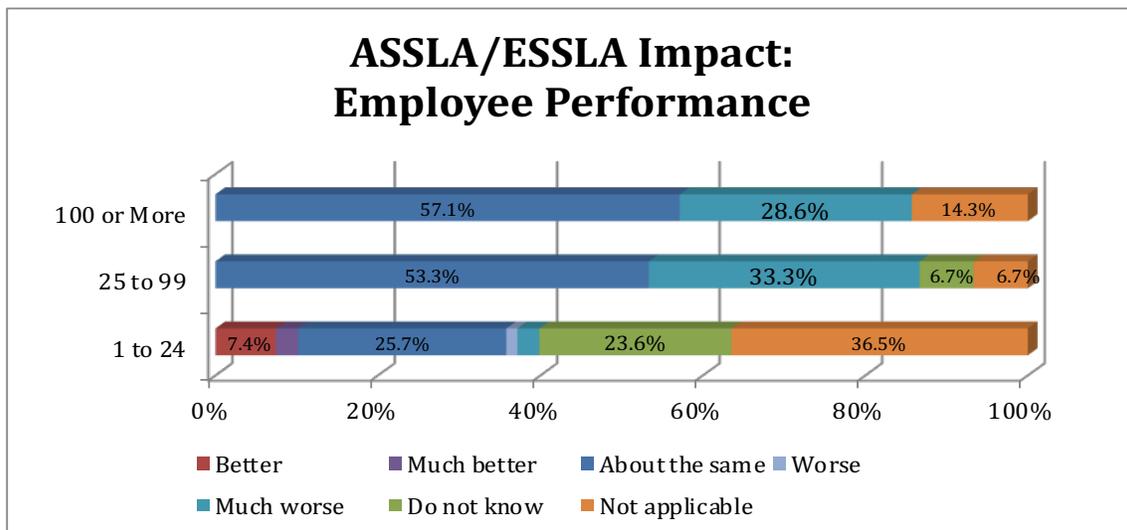


Chart 10: ASSLA/ESSLA Impact on Employee Performance

Overwhelmingly, the large and small businesses surveyed (i.e., businesses with 1 to 24 employees and 100 or more employees), noted that the Acts either had no impact or that they did not know what impact the regulations had on employee turnover (Chart 11). Large businesses showed more evidence that the leave requirements may have led to a decrease in employee turnover. On the other hand, within the “25 to 99” category, 60 percent of respondents commented that the Acts contributed to a decrease in employee turnover. This is a 44.2 percent change compared to the 2019 results.

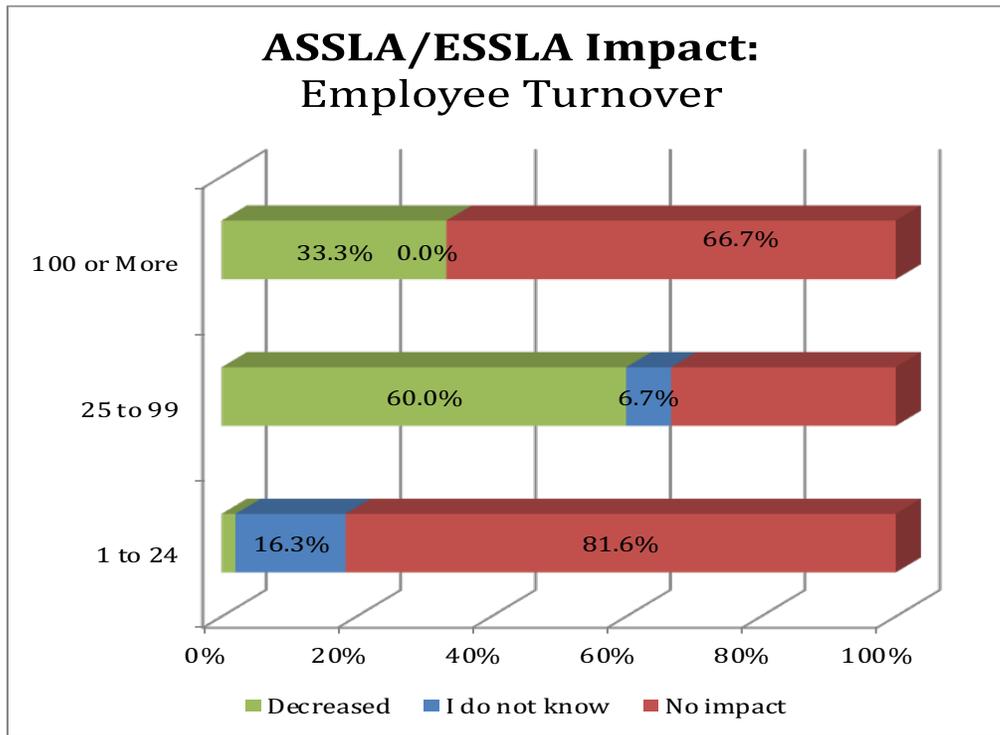


Chart 11: ASSLA/ESSLA Impact on Employee Turnover

Chart 12 illustrates the perceived impact the Acts had on profitability. Businesses with 1 to 24 employees and 100 or more employees responded overwhelmingly that the requirements had no impact on profitability (78.9 percent and 57.1 percent respectively). Approximately 14 percent of respondents in the 100 or more-category indicated that ASSLA led to an increase in profitability. In contrast, 62.5 percent of businesses with 25 to 99 employees responded that the requirements led to a decrease in profits.

Among businesses with at least one employee, 17.8 percent of respondents acknowledged implementing measures to offset adverse impact from ASSLA. This is a 10 percent increase compared to data collected in the 2019 survey.

## ASSLA/ESSLA Impact: Profitability

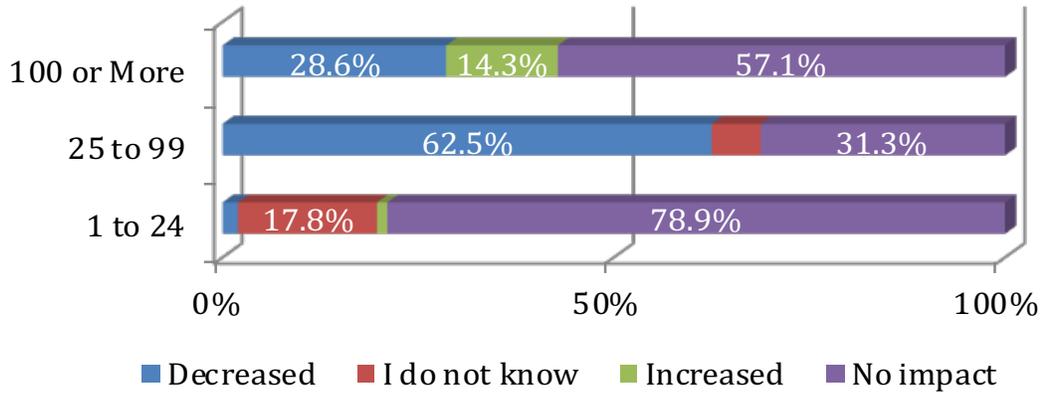


Chart 12: ASSLA/ESSLA Impact on Profitability

A consolidated representation of changes businesses made to paid leave is illustrated on Chart 13. Within this subset of businesses, 46.7 percent indicated making changes to become compliant with new COVID-19 requirements, 40 percent added components to existing leave policy, and 13.3 percent implemented benefits reductions.

## Changes to Leave Policy

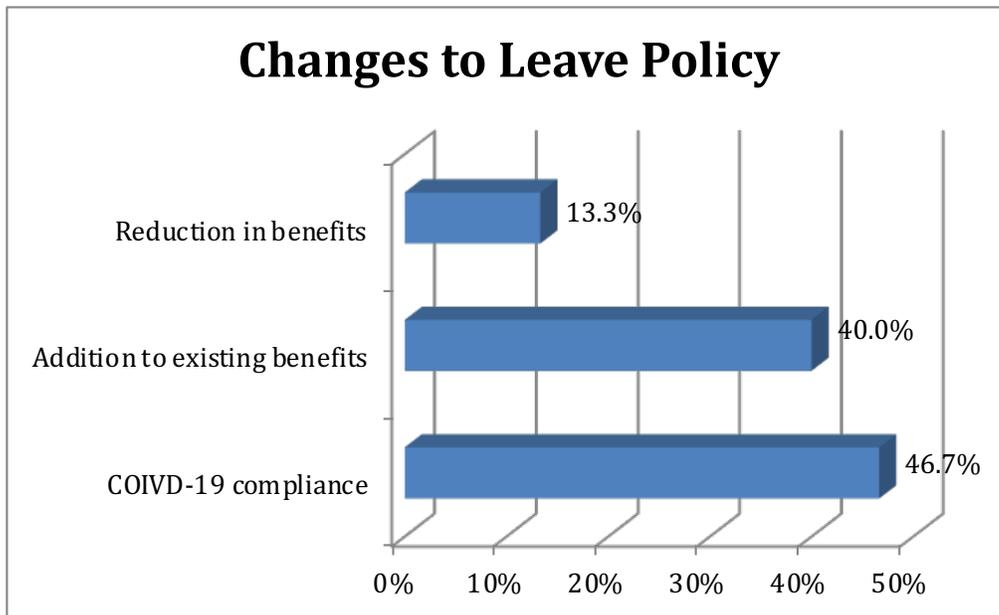


Chart 13: Changes to Leave Policy

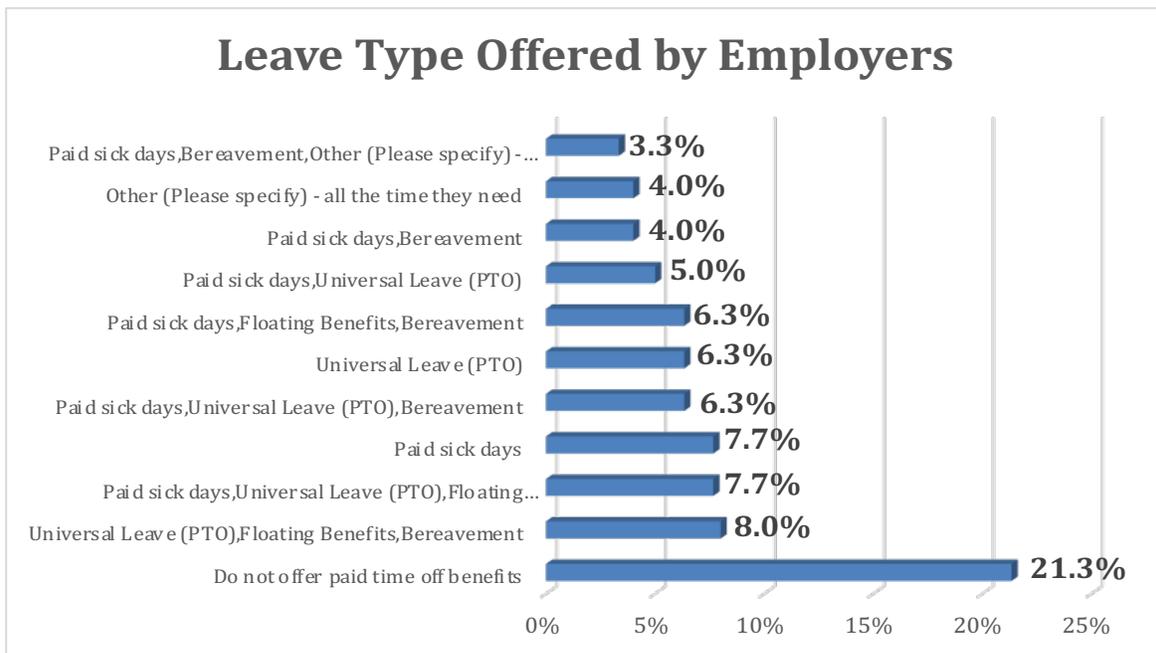


Chart 14: Leave Type Offered by Employers

## EMPLOYEE PERSPECTIVE

The sample size for employees is 824. The following report consists of self-reported data from individuals who were employed in DC in 2020. This information is used to evaluate business compliance with the requirements of ASSLA.

### Employee Profile

Data from the employee survey were compared to data from the business survey, as an experimental control to treat potential misreporting that may occur in the business survey.

Professional, scientific, and technical services ranked first out of all industries in the employee survey, with 20 percent of respondents identifying it as the industry in which they are employed (Appendix A).

### Compliance with ASSLA

When asked if the ASSLA poster was displayed in a prominent location at the workplace, 39.6 percent of employee respondents responded affirmatively. This is 31.2 percent lower than the 70.8 percent compliance rate reported by business respondents (Chart 5, above). The actual compliance rate is likely somewhat lower than what businesses reported and possibly higher than the level reported by employee respondents. In the business survey, 91.5 percent of all businesses surveyed responded that they offer leave benefits (Chart 9, above). This percentage decreases to 88.2 percent for service sector businesses surveyed<sup>3</sup>. Focus industries registered even lower, with 61.3 percent of respondents indicating they offered leave benefits (Chart 9, above). In the employee survey (Chart 14), 85.2 percent of all employees surveyed responded that their job offered leave benefits. This percentage increased slightly to 88.2 percent for survey respondents who were employed in the service sector. Employees working in focus industries indicated leave benefits were available at a rate of 78.4 percent.

<sup>3</sup> Service sector is comprised of all industries excluding construction, wholesale trade, and retail trade.

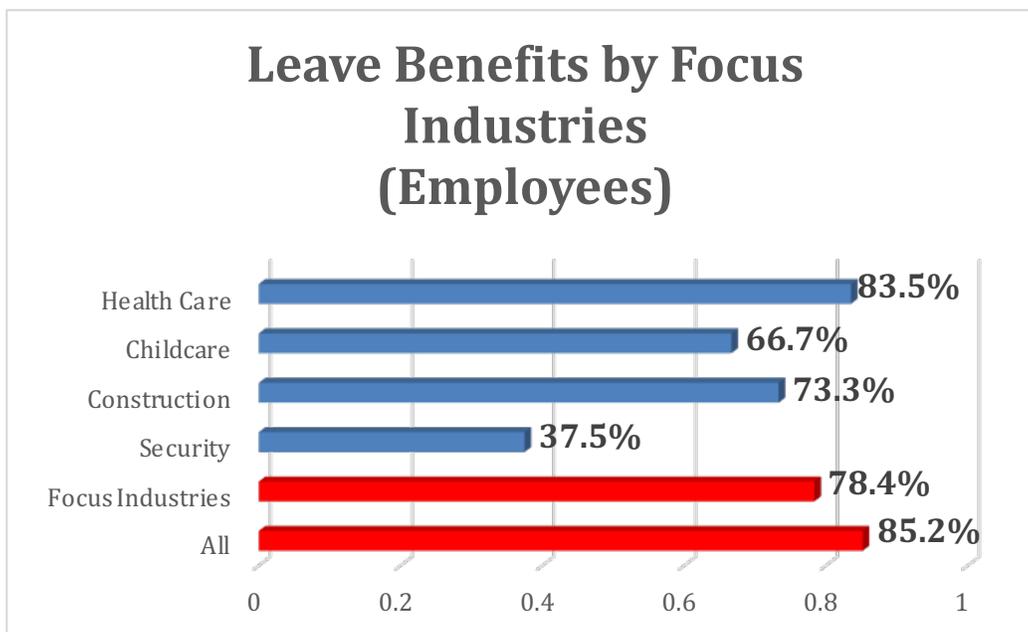


Chart 15: Leave Benefits by Focus Industries (Employees)

The Bureau of Labor Statistics' (BLS) annual release Employee Benefits in the United States tracks employees' access to paid leave by industry.<sup>4</sup> The BLS release identifies that 75 percent of private sector employees have paid leave benefits. Table 1 provides an excerpt from the 2020 BLS data that compares All Workers and Service Occupations. This is 13.2 percentage points lower than the 88.2 percent reported in the employee survey that was conducted for this study. Several factors, including location, sample size, and reporting bias may account for this difference. The BLS data shows that workers in service-related industries have less access to leave benefits when compared to workers across all industries. This is consistent with findings from the 2019 BLS data and it is also in-line with the results of the two surveys used for this research.

Table 1: Paid Leave Benefits (BLS, 2020)

	PRIVATE INDUSTRY		
	Paid Sick Leave (%)	Paid Vacation (%)	Paid Vacation (%)
All Workers	75	79	80
Service Occupations	59	58	57

The employee survey also included questions that focused on wage theft and whether it was prevalent among respondents. Compared to the 2019 report, there was an uptick in respondents who reported that they performed work for which they were not compensated. Just fewer than 7 percent responded affirmatively for 2020 compared to less than 1 percent for 2019. The portion of respondents who acknowledged receiving an itemized account of earnings each time they were paid decreased by 3.7 percent from 97.6 percent in 2019 to 93.9 percent in 2020. While additional research would be required to suggest a definitive trend in compliance among employers, data generated from the employee survey does indicate that compliance with ASSLA/ESSLA provisions may be lower than businesses reported.

4 Employee Benefits Survey <https://www.bls.gov/news.release/pdf/ebs2.pdf>

## COVID-19 Impact (Employee Survey)

Respondents who completed the employee survey were asked questions in order to gauge the impact of the COVID-19 pandemic on employees working in DC. When asked whether it was necessary to quarantine or isolate due to COVID-19-related exposure, 21.4 percent of employee respondents replied “Yes.” Nearly 69.1 percent of respondents indicated that they had accrued paid leave which they were not allowed to use to complete quarantine or isolation. The same percentage of respondents (69.1 percent) replied “Yes” when asked whether they continued to work during the time they were impacted by COVID-19. The survey revealed that some employees were not aware of certain provisions of ASSLA or the COVID-19 Emergency Act, which they could have used to obtain leave for quarantine purposes. Responses collected through the survey also highlight areas where employers did not adhere to requirements outlined in the COVID-19 Emergency Act.

## KEY FINDINGS:

- There is a strong correlation between years in operation and ASSLA compliance for businesses.
- Employees reported much lower levels of compliance with ASSLA than business owners for both the ASSLA and COVID-19 Emergency Act provisions.
- Less than half of employees were informed about their right to access paid leave under ASSLA or the COVID-19 Emergency Act.

## OWH INVESTIGATIONS

OWH claims data shows that the agency conducted 24 visits and investigated 12 claims in 2020 but found no instances of PTO violations.<sup>5</sup> OWH collected \$5,567.53 in damages for investigations conducted in 2019.

## FOCUS GROUPS AND ONE-ON-ONE INTERVIEWS

### Overview

This report summarizes the key findings of three focus group discussions and three supplementary one-on-one interviews conducted with employees in a span of two weeks in mid-June 2021. Participants represented four industry sectors in the District: 1) childcare, which is made up of daycare employees and nannies, 2) construction, 3) security, and 4) healthcare, which includes healthcare workers across different practice areas. The construction and security industries were combined into one focus group. Each focus group was comprised of 4-7 individuals and was held via Zoom. Initially, 8-20 qualified individuals signed up to take part in each of the focus groups, but due to scheduling and last-minute conflicts, the number of attendees who participated was smaller than expected. Due to a lack of strong attendance for the childcare industry focus group, we conducted additional one-on-one interviews with three employees who were either daycare workers or nannies. The childcare industry focus group had the smallest turn-out and included two employers who also attended. As a result, we conducted the additional individual interviews to gather a more employee-focused understanding.

The discussions revealed key findings and trends across industries as it relates to employee knowledge of ASSLA, company implementation, and access to benefits and policies, as well as personal experiences in utilizing leave, especially during the COVID-19 pandemic. All employees were limited in their knowledge of ASSLA and expressed confusion between company benefits and the benefits/policies entitled to them under ASSLA and federal laws. The overall findings revealed that most participants were not knowledgeable about the ASSLA regulations. Twenty percent of the participants, who were at least familiar

5 2020 OWH PTO Claims data

with ASSLA but did not possess comprehensive knowledge. Employees who served in managerial roles were more aware of ASSLA in comparison to those who were not in managerial roles.

Employees across the childcare and security sectors, and especially the healthcare sector, expressed the most dissatisfaction with their employers' leave policies and expressed fear of taking leave due to company size and a culture in which they were discouraged from taking PTO in fear of being laid off. Regardless of employer size, ASSLA was not fully explained to employees. There was a direct correlation between size of company and employee leave knowledge and access. Typically, the larger the organization, the more likely an employee was to have information on leave and be minimally aware of ASSLA, as opposed to smaller and medium-sized organizations. The larger the organization, the more likely it was to support employees in accessing leave information through initial onboarding handbooks (paper or online), email updates on policies, and have a main point of contact for leave matters. Small firms were less likely to provide leave information or education after initial onboarding. Leave requests and situations were typically handled in a more ad hoc manner based on industry and size of company. Most small companies handle their own human resources (HR) and payroll services. Only about 20% of the respondents stated that their employer had an outside service provider to support part or all of these services. Only employees at large firms reported having a separate department or an outside company handling HR or payroll.

All participants were interested in receiving ASSLA education and information, preferably from the District Government through emails, banners on buses or Metro, via text, or through professional organizations that support their respective industries. In addition, all participants would like to see more ASSLA and leave information on social media and receive it in a more digestible and simplified format that is easy to understand with less legal jargon. Participants recommended that the District Government share ASSLA information so that employees can better understand their rights and compare the requirements against their employer's benefits. In addition, the participants gave valuable insights on the underlying challenges across industries and shed light on their experiences with their employers. In conclusion, participants recommended tools, resources, and processes to improve the District Government's policy communications to employers, as the participants did not feel that employers excelled in sharing ASSLA information with their employees.

## Introduction

Focus groups and one-on-one interviews were utilized to understand employees' perspectives beyond what a survey alone can assess. Our goal in conducting deeper dives with groups and individuals was to elicit and understand employees' emotional and honest insights and navigate towards common experiences and patterns. The exploratory questions for these interviews and discussions were intentionally crafted to understand varying perspectives based on differing conditions and were also centered on understanding where existing challenges in policy applications and navigation may exist.

## Methodology

Three focus group discussions and three, one-on-one interviews were conducted over a period of two weeks (June 7-18, 2021) with a participant group of 4-7 people per group, totaling 20 participants across three industries. (The focus groups were hosted on June 10, 12 and 15, 2021, and the one-on-one interviews took place on June 16 and June 18, 2021.) The challenge we faced was that we expected 6-10 participants per group as the initial sign-ups per group ranged from 8 - 22 participants. We sent reminder emails and made phone calls to those who signed up. However, each facilitated session had only 4-7 participants. Most of the participants were employees, except for two owners who attended the childcare industry focus group and identified as employees of their own companies. The majority of the participants across all industries were individuals who identified as women. The participants in the healthcare industry session all identified as women.

Initially, participants were identified through two mechanisms 1) those who responded within the survey, stating availability and interest to take part in a focus group, and 2) those who responded to advertising and direct outreach via calls, text messages, and emails to employees across the specific industries. Dates and times varied to ensure we could offer morning, mid-day, evening, and afternoon options for participants to take part. Our team utilized Zoom to host these sessions. All sessions were recorded, and information was captured by a notetaker during the sessions who also had access to session recordings. Participants were made aware that the sessions were being recorded and a notetaker was in the meeting. Participants were ensured that this process was confidential, and no participant's name would be included in the report.

The focus group discussions were undertaken to 1) assess employees' familiarity with ASSLA, 2) assess compliance levels in the focus industries, and 3) assess ways the District Government can better support workers in the District and ensure employees are getting access to their legally mandated paid leave.

## Key Findings

- Employees in the childcare industry reported a much less structured process at their companies for requesting and tracking PTO.
- Because of their fear of being unemployed or laid off, employees in the healthcare industry felt disempowered regarding using or taking time off, which has led to employee burnout.
- During COVID-19, employees in the childcare, security, and healthcare industries continued to show up and work in person due to lack of coverage, fear of losing their jobs, and unattainable leave benefits.
- All employees and employers confirmed that information about ASSLA is provided at a minimum via hard copies of employee handbooks upon an initial hire and/or is made accessible to employees through email and company databases, but there is a lack of additional education or training for employees.
- Employees expressed a universally strong lack of knowledge about ASSLA across all industries and expressed confusion regarding how ASSLA applies to and impacts their employer leave policies.
- The timeframe between paid leave requests and approvals proves to be problematic across most industries, as small- and medium-sized firms do not have effective processes to ensure employees receive approvals quickly. This is especially challenging due to coverage issues across the childcare and healthcare industries.

## Childcare Industry

The childcare industry focus group took place on Thursday, June 10, 2021, from 12:00pm -1:00pm EST with a group of four participants who either worked in a childcare center or as a nanny. Unfortunately, two of the four were also employers (see below), so we conducted additional one-on-one interviews with three additional participants who worked as a nanny or in a childcare center to ensure we had at least five participants to cover this industry. During the focus group, half the participants identified as men and the other half identified as women. All participants who took part in the one-on-one interviews were women. The majority of the childcare sector focus group and one on one interview participants were employed in full-time capacities (75% of the participants) while 25% were employed in a part-time capacity. All experienced the closing of their facilities on some level, generally from March-July 2020. During this period, most shifted from in-person work to remote work.

## Part I: Foundations of the Business

The majority of the daycare and nanny organizations were relatively small businesses with fewer than 30 employees, except for one large organization that had a total of 90. HR and personnel matters for these small businesses were primarily handled by the founder or owner of the organization. In two instances, an individual handled operations and supported HR matters, and one organization had an HR department. In terms of the visibility of leave policies (i.e., posters), three out of the seven participants reported that their employers did not post any ASSLA materials in visible locations across the office or daycare space. One individual reported that the materials that were visible, but outdated, while three participants reported that either there were no visible materials posted or materials were not made accessible via online portals. The remaining three reported having access either through online portals (SharePoint, Google Drive, or other in-house company portals) and/or their employer provides updated visible materials.

Based on employee feedback from the focus group and one-on-one interviews, most employees do not receive ongoing education, training, and information about amendments to the ASSLA regulations. Most employees receive initial information through access to company portals, hard copies in company handbooks, and general information posted around worksites. There does not seem to be continued training and updates to ensure employees across this sector are well informed about their companies' leave policies or what is required under ASSLA.

## Part II: Assessing Knowledge and Understanding of ASSLA

The general knowledge of ASSLA by employees across the daycare, nanny, and childcare industry was very limited. Most relied on what was initially provided by employers as part of their onboarding packets and/or information emailed to them. Others were completely unaware of ASSLA and unfamiliar of what specific leave policies were available to them as part of their jobs. During the focus groups and one-on-one sessions, the facilitator read two general statements from ASSLA to assess their familiarity with their rights under ASSLA. (See Appendix B). Universally, employees responded that they had never heard of ASSLA but had some familiarity with ASSLA provisions from language included in their onboarding packets.

## Part III: Enforcement and Impact

Most employees were impacted either directly or indirectly by the COVID-19 pandemic and required leave in some capacity. All made it clear that they were able to access leave, either by taking unpaid leave, negotiating with parents to figure out leave, or taking available paid leave. Few were aware of the COVID-19 Emergency Act amendments to ASSLA. The 30% who were aware of any COVID-19-related changes or updates to paid leave policies were more familiar with the changes to Family and Medical Leave Act (FMLA) policies and were not supported in navigating the leave process, apart from one employee who was provided a leave application. One employee left their employer because they were not satisfied with the company's leave policies. One employee went on unemployment during this time period due to a reduced number of hours, while another's company reduced their hours during the pandemic, forcing them to shift to another industry.

Overall, no employees had reached out to the District Government to report any wage theft or PTO violations. Based on participant viewpoints, an industry pattern emerged revealing that the ability to access paid leave is a constant challenge, since there is only one caretaker or nanny per group or family. This makes it hard to get coverage and can prove to be challenging to take longer-term time off.

One participant recommended that DOES or the Department of Consumer and Regulatory Affairs (DCRA) be more proactive in their outreach to businesses at the initial stage of business formation. The recommendation is that these agencies educate businesses in more depth on handling and forming systems

to support employees to help keep businesses in compliance with ASSLA in the future. This initial education and information should focus on ensuring that employers are fully knowledgeable and aware of what is required. Currently, based on the participants' experience, DCRA does not do much outreach and the Department of Small and Local Business Development (DSLBD) only does some outreach to small business owners to educate them on different aspects of District policies. Both agencies should be proactive about what is required to be active and in compliance with ASSLA and other information relevant to employment.

## Healthcare Workers

The healthcare industry focus group took place on Saturday, June 12, 2021, from 10:00am - 12:00pm EST. A total of seven participants attended the focus group. This participant group fully identified as women and came from a range of healthcare specializations and leadership levels. The participant group had been with their current employer between 2 and 20 years. During the COVID-19 pandemic, this participant group continued to work full time. Four out of seven participants shifted to remote work, while one continued to see patients in-person as a medical practitioner, and the remaining two shifted to a hybrid of in-person and remote work. The participant group worked in the following healthcare areas:

- Nursing and group homes,
- Behavioral health,
- Large and small healthcare providers, and
- Healthcare consulting.

## Part I: Foundations of the Business

Of the 7 participants, 2 worked for large employers that had 2,500+ employees, 2 worked for medium-sized employers with 300-400 employees, and the remaining three participants worked for small employers with a staff of 15-50 employees. The large employers all had HR departments that were responsible for handling HR and personnel matters; the medium-sized firms had either an individual who was responsible for HR matters or hired an external vendor to support HR matters; and the small firms' HR matters were handled by an individual in-house, typically a founder/owner or an operations manager. Of all the participants, one participant working at a large employer also serves in a managerial role and is responsible for supporting other employees in accessing their leave by working with their HR department.

## Part II: Assessing Knowledge and Understanding of ASSLA

ASSLA and leave information was provided to the large employers' employees through online portals, emails, posters, and guidebooks. Those who worked at medium-sized employers stated they received initial information about leave, benefits, and ASSLA, but were unclear about their rights under ASSLA and if their employer's leave policies were compliant with the law. This group experienced confusion in trying to figure out their leave benefits and rights during the COVID-19 pandemic. Lastly, those who worked for the small employers felt unprepared to take leave during the COVID-19 pandemic. One participant stated that due to the operations manager leaving the company, the HR and personnel matters were left to the owners/founders who were already overwhelmed, and thus did not provide much, if any, support regarding leave. Instead, all employees worked together to find ways to take leave when needed, but due to coverage challenges, it became difficult.

Overall, when asked about their knowledge of ASSLA, the entire participant group stated that they were generally lacking in their knowledge of and understanding of ASSLA, except for one participant who was familiar with ASSLA but who did not fully grasp it or how it compared to their in-house employer benefits. When asked about the two ASSLA statements (Appendix B), all but one participant stated they were unfamiliar with these specific provisions.

### Part III: Enforcement and Impact

Across the healthcare industry, the greatest concern is the fear of being laid off or becoming unemployed because of the need to take leave. All participants stated that there is a general fear across the industry of using leave benefits, leading employees to feel disempowered in their ability to use leave as needed. Participants stated that this trend is prevalent and most employees experience burnout as a result due to the fear of being laid off. Therefore, most employees were coming to work during the COVID-19 pandemic, even when they were feeling sick. In general, most participants felt they were penalized for taking leave, and when they returned from leave, they found the amount of work had piled up – a factor which also led to employee burn-out.

Most participants were alarmed about their lack of knowledge about ASSLA.

### Construction and Security

The Construction and Security focus group took place via Zoom on Tuesday, June 15, 2021, from 5:30pm - 7:00pm with a group of five employees. We initially identified a total of seven participants who were available and matched the requested criteria to take part in the discussion, but only five participants attended. The participants were a mix of construction and security employees who worked in the government and private sector. This group was made up of 60% women and 40% men. All but two of the participants had been at their present employer between two and four years. One participant was recently retired and new at his security employer for eight months, and the other participant had been at their current company for eight years.

### Part I: Foundations of the Business

The participants worked across the security and construction industries, holding a mix of positions. Three participants worked at small firms with 20-50 employees, one worked for a government agency, and one worked for a large employer. Two of the three smaller firms' HR and personnel matters were handled by one individual who was either the founder/owner or someone assigned in an operations role; the other firm used an outside vendor to handle HR matters. The government agency and large corporation had HR departments that handled all personnel and leave matters.

Two of the five participants stated that they did not receive much, if any, information about their leave benefits or ASSLA. They were responsible for identifying and requesting information regarding leave either from their employer or by researching the information that should be applied to them. Two participants did not directly receive information from their employer. The remaining three participants shared that they were provided leave information in orientation handbooks, online company portals, and by access to posters at company sites. Only one participant reported ongoing trainings and education about their leave benefits.

All but one of the participants stated that their employers adjusted for COVID-19 related leave to ensure employees were able to take leave as needed in the case of contracting or quarantining for COVID-19. One focus group participant stated that their employer required employees to come in regardless of COVID-19 status and threatened employees with unemployment if they did not show up to work. Two of the five participants experienced some form of difficulty in taking leave, thus they requested leave under FMLA or took a mental health day off.

### Part II: Assessing Knowledge and Understanding of ASSLA

Participants stated that they were somewhat knowledgeable about ASSLA but they were not fully aware of their rights under the law. Most employers made ASSLA information available in handbooks or online

portals. Two participants stated that they were only aware of ASSLA as a direct result of their own personal research into their leave rights. While this participant group stated awareness or general familiarity of ASSLA, none were deeply knowledgeable of their rights under ASSLA. When provided the two statements from ASSLA (Appendix B) during the focus group, all reported that they were not aware of these provisions in ASSLA.

### Part III: Enforcement and Impact

Two of the five participants were subsidized with additional hazard pay as result of working during the COVID-19 pandemic for a short period. Participants across this industry did not report employer adherence to the COVID-19 Emergency Act provisions or leave policies in general. Rather, most participants stated that they knew from whom or where they could seek additional information regarding leave, if needed. Two out of five employees were satisfied with how their employers handled their needs, while the rest of the participant group was deeply dissatisfied or frustrated with the way leave was handled during the COVID-19 pandemic.

Most participants stated that supervisors did not get back to employees in a timely manner regarding leave requests. This can also be due to employers' lack of understanding or comprehension of COVID-19 Emergency Act enhancements.

## DISTRICT GOVERNMENT INTERVIEWS

### OVERVIEW

To understand and determine whether DOES and other agencies are adequately protecting workers' rights and enforcing ASSLA's provisions, our team conducted semi-structured interviews with representatives from DOES and DCHR. The purpose of the interviews was to gain better understanding of the role each agency plays in enforcing ASSLA, how the agencies collaborate and communicate on ASSLA-related matters, and the perception of officials on how their respective agencies are doing with enforcing ASSLA and protecting the rights of District workers. Two virtual interviews were conducted over the span of one week in May. On Wednesday, May 26, 2021, from 4:00pm to 5:00pm EST, our team interviewed one leader from DOES. On Thursday, May 27, 2021, from 1:00pm to 1:30pm EST, the second interview was conducted with three leaders from DCHR. Each interview lasted 30 minutes to one hour. Participants were given the opportunity to request any date or time during business hours to conduct their initial interviews. Our team also invited DCRA and OAG to take part in these interviews, but agency representatives declined the offer, citing unavailability.

All sessions were recorded, and information was captured by the facilitator who took notes and who also had the ability to review session recordings to assess accuracy. Participants were made aware in advance that the sessions were being recorded and were reminded at the start of interview sessions.

Questions were also provided to the participants in advance to allow for adequate preparation.

Although following the same themes, the questions varied slightly by agency. The questions focused on understanding and assessing the following:

1. Foundation of each agency's work with ASSLA.
2. Intergovernmental collaboration around ASSLA.
3. ASSLA enforcement processes.
4. Assessment of how well each agency's support of ASSLA was going.
5. The impact of COVID-19 on each agency and its ASSLA related responsibilities.

## INTRODUCTION

Each participating agency has a different relationship with ASSLA. Foundationally, DOES is responsible for the enforcement of all District sick and safe leave laws. DOES is mandated by law to enforce ASSLA and serves as the law's primary enforcer. DOES therefore coordinates all audits and investigations and ensures that District businesses adhere to the law. DOES interfaces with different agencies for different aspects of enforcement.

OAG enforces ASSLA through investigations and litigation. In addition, OAG holds subpoena authority to investigate cases unilaterally.

DCHR does not oversee ASSLA requirements, but is responsible for ensuring that as an employer, the District Government's paid leave policies are compliant with the law.

DOES works closely with the business community, advocates, other District agencies to ensure that ASSLA education is taking place, and that both employees and employers understand the requirements under the law. The following is an overview of the key findings of the District Government interviews.

## DOES INTERVIEW:

The DOES interview took place on May 26, 2021, from 4:00-5:00pm EST with one member of the leadership team. The following are lessons learned and key take-aways from the interview.

### **Roles, Relationships, and Collaboration with Other Agencies:**

DOES is the primary enforcer of ASSLA and works to coordinate all audits and investigations, and makes sure businesses adhere to the law. In addition, DOES is responsible for leading the District in educating employers and employees on ASSLA. DOES interfaces with several agencies, primarily DCHR, OAG, and the Office of Administrative Hearings (OAH). OAG enforces actions and can launch their own investigations and civil actions. DOES works with DCRA to ensure business compliance and conducts license investigations. Engagement with DCHR is limited to a consultation role when ensuring District intermittent workers are receiving proper leave benefits.

While the COVID-19 pandemic has provided many challenges across the board, DOES has been able to improve communication with OAG because OAG has attorneys assigned to focus on wage theft cases. The participant stated that good communication and relationships continue with OAG, specifically.

If DOES finds a possible violation during an investigation, the violation is sent to the OAH to process as a complaint. By law, employers have 20 days to respond to the complaint. If the employer does not respond, then the complaint will stand as a fact. At this point, the complaint will be sent to OAG for civil enforcement. Employers have time to respond to OAH and DOES to resolve the complaint before enforcement takes place.

DOES approaches ASSLA work in a proactive manner by leveraging data and trends to identify problematic industries. In addition, DOES sends out over 20,000 notices to inform businesses about ASSLA updates, and works with other agencies to conduct joint enforcement activities and informational sessions. DOES works with District agencies, trade associations, and local partners to ensure they have accurate mailing and email addresses, in order to share updates with businesses. The agency focuses on several ASSLA outreach campaigns targeted at employers and employees.

## Agency Performance & Processes

The District has some of the strongest wage laws in the country and serves as an example for others. Sick leave is guaranteed for all DC employees regardless of part-time or full-time status. DOES takes it seriously when complaints are made. In addition, the agency focuses on being responsive and accessible. During the pandemic, DOES made sure that it was fully staffed, adjusted online forms to make them fillable, and placed dedicated staff to receive and follow-up on messages from employees. They have worked to make it as easy as possible for employees to file complaints, raise a concern, or get answers. When conducting investigations, DOES provided notices to employees, so everyone is aware an active investigation is ongoing. Also, complaints can come in the form of formal complaints or can be submitted anonymously. The agency looks for companies who have repeat complaints and typically conducts random audits to ensure other violations do not occur.

Currently, DOES has a strong process in place that is operating well. The greatest challenge is that DOES does not investigate enough sick leave complaints.

The agency's educational campaigns have included Metro bus ads, newspaper ads in various languages (including Amharic and Spanish), public engagement campaigns, and most recently, a grant program for credible community organizations to target a larger pool of businesses across industries. In addition, DOES has been working with the DC Office of Night Life to keep up with DC businesses that are opening and closing during the pandemic. Leveraging resources and relationships has been key to improving community engagement. While there is always room for improvement, the agency does take a proactive approach. DOES is unsure of the exact nature of the low number of complaints received annually, but has worked to continue leveraging innovative educational campaigns, improving the process for filing complaints and becoming more accessible to employees. While DOES recognizes and understands that each small business faces unique challenges, OWH's role remains to ensure that employees receive payment for work, and to enforce ASSLA. In recognition of small business challenges, DOES conducts several educational activities to target business owners such as business roundtables for industries to make them aware of their obligations as employers in the District. The agency collaborates on educational programs with various partners to get this information out. This is in addition to the robust information on DOES's website. The agency launched and conducted special sick leave webinars specifically to cover COVID-19 Emergency Act ASSLA enhancements. The agency has increased social media campaign ads (Twitter, Facebook, and Instagram), and will be launching a sick leave public education campaign in the spring 2022. Yet, despite this level of engagement, the hospitality, restaurant, childcare, and security industries remain the most problematic and most consistent violators. It has been recognized that these industries operate in a fee-for-services model and tend to cite cash flow challenges as the reason for violations.

## COVID-19 Enhancements

The majority of businesses in the District were initially shut down as a result of the pandemic. DOES received complaints about sick leave and other wage theft-related concerns. DOES was open early and was able to see clients. DOES was able to do virtual workshops and meetings as the COVID-19 pandemic raged on. The agency was able to redesign its database to manage and track complaints, and to hire a manager to oversee Covid sick leave audits of hundreds of businesses. The DOES team continued to work remotely, but workflow never stopped.

“We have a phenomenal team, Director, and Mayor Bowser who support the work of DOES and have allowed us to be innovative in our work around ASSLA. We have been afforded the resources, and this speaks to the commitment of the District to ensure employees are supported in the District.” – DOES

Official

## DCHR INTERVIEW

The DCHR interview took place on Thursday, May 27, 2021, from 1:00pm -1:30pm EST with three members of the leadership team. The following are lessons learned and key take-aways from the interview.

### Roles, Responsibilities, and Engagements

DCHR's human resources information system allows it to easily maintain compliance with ASSLA. DCHR coordinated with the Office of the Chief Technology Officer (OCTO), its technology provider, to make sure that everything was programmed correctly and everyone who qualifies is afforded leave. DCHR is not an enforcer of ASSLA, as they manage DC employees' leave needs. According to participants, most District Government employees are afforded a better sick leave benefit than required by ASSLA.

### Agency Performance and Processes:

The agency representatives rate the overall performance of the work as positive and effective. DCHR works with employees when they need to take sick leave to the extent that they have sick leave available, and even if they do not, the agency still find ways to support them. DCHR completed several extra audits and in the last five to six years have not received any major complaints.

DCHR has several mechanisms through which DC employees are able to protect their rights by filing grievances. Employees can file through the grievance procedures handled at agency level, but the grievance can be escalated to DCHR (non-unionized employees) or to OHR (unionized employees). The current system process has a way to code employees. The system automatically calculates hours worked and assigns the number of available sick leave hours. Employees then can request leave and this information is routed to their managers for approval. Once approved and leave is taken, the system then reduces the amount of available leave. This process is seamless and ensures the accuracy of availability of leave. It should be noted that DCHR only regulates District employees and does not handle non-government employees.

### COVID-19 Enhancements

DCHR developed a COVID-19 sick leave program in response to federal legislation, offering all employees 80 hours of leave if needed to quarantine or isolate. All employees are eligible for this benefit. DCHR also amended its policies to allow for up to 12 weeks paid leave for childcare-related reasons. DCHR also expanded telework eligibility so that the government was still operational, and employees were able to complete their work from safe locations.

## KEY FINDINGS

- DOES has made new and innovative improvements to educate employers and workers about ASSLA in-person, virtually, and through various social media and advertising campaigns.
- DCHR's automated system works effectively to manage and process leave for District employees.
- Overall, the District has done a sufficient job at addressing ASSLA-related claims when reported by employees.
- While DOES has the authority to investigate and resolve complaints that it receives, they must refer cases to OAG for enforcement when the employer fails to comply.
- DOES has gotten more proactive in ASSLA education by conducting and supporting public education activities.
- DCHR works directly with District employees and intermittent employees to ensure they are aware

of their rights and have access to file grievances as needed.

## PUBLIC EDUCATION EFFORTS

During 2020, DOES had to adjust its public education activities because of the COVID-19 pandemic. The agency continued to provide presentations and information about ASSLA via virtual meetings and through email communications. The agency also awarded grants to community-based organizations to increase outreach efforts and raise awareness of the District's wage laws and inform residents and employees of proper procedures to file a claim when their rights are violated. The agency awarded grants to the VETS Group and the Ethiopian Community Center.

In 2020, the grantees were still able to distribute postcards and flyers to employees commuting to and from work. The grantees also hosted presentations and question-and-answer sessions via Facebook. The VETS Group also used its podcast during the pandemic to share information about ASSLA.

## RECOMMENDATIONS

The following recommendations have been made as a result of the study to enhance compliance and mitigate challenges as addressed in the above findings. While these recommendations are not a "cure-all" for compliance-related issues, we believe they will help the agency better uphold the spirit and the intent of the law and help close the information gap.

### **Recommendation #1: Strengthen communication efforts with business owners and employees.**

While DOES currently conducts public education campaigns and has made robust guidance available on their website, there remains an information gap with both business owners and employees about the District's requirements. The research team believes that the agency would benefit from bolstering their communication efforts through traditional and nontraditional avenues.

Furthermore, the agency could dedicate staff members to serve as business liaisons whose primary roles are to reach out to businesses and ensure that they are aware of the requirements of the law and to answer any questions. They should primarily focus on small businesses that may be in the process of hiring their first employees.

### **Recommendation #2: Develop Employer and Employee Training Tools**

While the agency does require businesses to inform employees about the ASSLA requirements by placing a poster in a visible location, there still remains a significant knowledge gap. The agency can support business owners and employees by developing training modules that can be shared with business owners and employees and placed on the agency's website.

## FURTHER RESEARCH NEEDED

The survey allowed both business representatives and employees to self-certify that they were eligible to participate. The research team did not have a way to verify that respondents did in fact meet one of the two requirements for participation in the survey. While we believe that this survey iteration and report can serve as a strong base upon which future efforts are expanded, it should be noted that the current method does leave at least some risk of selection bias and sampling error. Survey data is also subject to misreporting errors.

This research gauged compliance with the ASSLA's leave requirements by identifying businesses that failed to provide leave altogether. ASSLA guidelines also stipulate the amount of paid leave that should accrue based on the number of employees a business maintains. It is possible that a higher percentage of businesses would not be compliant if this was factored in. Further research is needed in order to evaluate businesses' compliance with the ASSLA's leave accrual guidelines.

## Appendix A: Survey Questions and Responses

### Demographic Questions

#### 1. What is your date of birth?

1182 Responses

#### 2. With which racial and ethnic group do you identify?

	Response Percent	Response Count
American Indian or Alaska Native	0.23%	3
Hispanic, Latino, or Spanish origin	4.17%	54
White	59.46%	770
Asian	4.25%	55
Middle Eastern or North African	1.54%	20
Black, African American	26.10%	338
Native Hawaiian or Other Pacific Islander	0.15%	2
Another race or ethnicity not listed above	0.39%	5
African	0.15%	2
Caribbean	0.77%	10
Other (Please specify)	2.78%	36

#### 3. To which gender identity do you most identify?

	Response Percent	Response Count
Female	59.38%	772
Male	37.31%	485
Transgender Female	0.00%	0
Transgender Male	0.31%	4
Gender Variant/Non-Conforming	0.54%	7
Not Listed	0.15%	2
Prefer Not to Answer	2.31%	30

#### 4. Which statement best describes you?

	Response Percent	Response Count
I was employed in the District of Columbia for more than 90 days in 2020	68.39%	898
I own or manage a business or organization that was operational in the District of Columbia for more than 90 days in 2020	23.23%	305
Neither of the Above	8.38%	110

**5. How long have you worked for your employer in the District?**

	Response Percent	Response Count
Under 15 days	0.24%	2
Between 15 days and 89 days	1.45%	12
Over 90 days	2.91%	24
Less than 1 year	7.76%	64
1-5 years	45.58%	376
5-10 years	22.79%	188
Over 10 years	19.27%	159

**6. How much income did you earn while working in DC in 2020?**

	Response Percent	Response Count
\$0	0.48%	4
\$1 to \$9,999	5.58%	46
\$10,000 to \$24,999	7.76%	64
\$25,000 to 49,999	12.97%	107
\$50,000 to 74,999	19.03%	157
\$75,000 to 99,999	19.39%	160
\$100,000 to 149,999	20.12%	166
\$150,000 or more	14.67%	121

**7. Did your compensation include tips?**

	Response Percent	Response Count
Yes	2.55%	21
No	97.45%	804

**8. What portion of your income do you receive in the form of tips?**

	Response Percent	Response Count
As much as 10%	52.38%	11
As much as 25%	14.29%	3
As much as 50%	14.29%	3
As much as 75%	14.29%	3
As much as 100%	4.76%	1

**9. Are you aware that District law requires employers to pay tipped employees no less than \$5.00/hour beginning July 1, 2020?**

	Response Percent	Response Count
Yes	35.39%	292
No	64.61%	533

**10. Did you get paid in cash?**

	Response Percent	Response Count
Yes	1.94%	16
No	98.06%	809

**11. How frequently did you get paid?**

	Response Percent	Response Count
Daily	0.36%	3
Weekly	4.85%	40
Bi-weekly/every two weeks	81.70%	674
Monthly	7.52%	62
Other (Please specify)	5.58%	46

**12. Did you receive a pay stub on pay day that detailed your wages?**

	Response Percent	Response Count
Yes	93.94%	775
No	6.06%	50

**13. During 2020, did you perform work that you were not paid for?**

	Response Percent	Response Count
Yes	6.91%	57
No.	93.09%	768

**14. During 2020, did you experience any of the following? (select all that apply)**

	Response Percent	Response Count
I worked overtime and either was not paid at all or was not paid the correct amount.	59.65%	34
I was asked to start work early or stay at work late and was either not paid at all or was not paid the correct amount.	42.11%	24
My employer docked my salary or benefits without cause.	10.53%	6
Other (Please specify)	29.82%	17

**15. Are you aware that companies operating in DC are required to offer employees paid leave for work absences associated with domestic violence or abuse in accordance with the Accrued Sick and Safe Leave Act of 2008 (ASSLA) and Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA)?**

	Response Percent	Response Count
Yes	42.91%	354
No	57.09%	471

**16. Were the requirements of ASSLA/ESSLA posted at your worksite?**

	Response Percent	Response Count
Yes	48.12%	397
No	51.88%	428

**17. Did your job offer paid leave?**

	Response Percent	Response Count
Yes	85.09%	702
No	14.91%	123

**18. Which Industry did you work in during 2020?**

	Response Percent	Response Count
Agriculture	0.00%	0
Mining	0.00%	0
Utilities	0.00%	0
Construction	1.82%	15
Manufacturing	0.36%	3
Wholesale Trade	0.24%	2
Transportation and Warehousing	0.97%	8
Information Technology	3.88%	32
Finance and Insurance	2.79%	23
Real Estate and Rental and Leasing	2.67%	22
Professional, Scientific, and Technical Services	19.52%	161
Management of Companies and Enterprises	1.33%	11
Administrative and Support	4.97%	41
Waste Management	0.48%	4
Educational Services	10.79%	89
Health Care and Social Assistance	9.82%	81
Arts, Entertainment, and Recreation	3.52%	29
Accommodation and Food Services	3.64%	30
Other (Please specify)	28.97%	239

**COVID-19 Paid Sick Leave (Employee Based)**

<b>19. Were you required to quarantine or isolate due to a COVID-related exposure?</b>		
	<b>Response Percent</b>	<b>Response Count</b>
Yes	21.42%	172
No	78.58%	631

<b>20. Were you allowed to use paid leave to complete your quarantine or isolation?</b>		
	<b>Response Percent</b>	<b>Response Count</b>
Yes	60.47%	104
No	39.53%	68

<b>21. How many hours of leave were you paid?</b>		
104 Responses		

<b>22. Did you have accrued paid leave that you were not allowed to use?</b>		
	<b>Response Percent</b>	<b>Response Count</b>
Yes	30.88%	21
No	69.12%	47

<b>23. How many hours were you unable to work due to COVID-related reasons and not paid?</b>		
68 Responses		

<b>24. Did you continue working during the time you were impacted by COVID-19?</b>		
	<b>Response Percent</b>	<b>Response Count</b>
Yes	69.12%	47
No	30.88%	21

<b>25. Were you required to work after reporting that you had been ordered to isolate or quarantine because of exposure or potential exposure to COVID-19?</b>		
	<b>Response Percent</b>	<b>Response Count</b>
Yes	46.81%	22
No	53.19%	25

26. Are you aware that if you worked for your employer for at least 15 days and had a COVID-related reason for being unable to work, that your employer is required to pay you leave based upon the hours that you normally work?

	Response Percent	Response Count
Yes	46.45%	373
No	53.55%	430

### Business Owner Questions

27. What is the primary industry of your business?

	Response Percent	Response Count
Agriculture	0.00%	0
Mining	0.42%	1
Utilities	0.42%	1
Construction	3.77%	9
Manufacturing	0.84%	2
Retail Trade	6.69%	16
Transportation and Warehousing	2.09%	5
Information Technology	1.67%	4
Finance and Insurance	0.00%	0
Real Estate and Rental and Leasing	15.90%	38
Professional, Scientific, and Technical Services	22.18%	53
Management of Companies and Enterprises	1.26%	3
Administrative and Support	0.00%	0
Waste Management	0.42%	1
Educational Services	4.60%	11
Health Care and Social Assistance	4.60%	11
Arts, Entertainment, and Recreation	4.18%	10
Accommodation and Food Services	6.69%	16
Other (Please specify)	22.18%	53

28. How many years has your company employed employees who spend 50% or more of their time working in DC?

	Response Percent	Response Count
Years	100.00%	237
Months	65.82%	156

**29. How many of your employees spend 50% or more of their time working in DC?**

	Response Percent	Response Count
0	28.15%	67
1 - 24	62.61%	149
25 - 99	6.30%	15
100 or more	2.94%	7

**30. What was the annual revenue for your business in 2020?**

	Response Percent	Response Count
Under \$250,000	48.74%	116
\$250,000-\$1,000,000	19.75%	47
\$1,000,001 - \$5,000,000	18.49%	44
\$5,000,001 - \$10,000,000	1.68%	4
\$10,000,001-\$25,000,000	7.14%	17
\$25,000,001-\$50,000,000	1.26%	3

**31. Did any of your employees earn tips?**

	Response Percent	Response Count
Yes	12.61%	30
No	87.39%	208

**32. Are you aware that District law requires employers to pay tipped employees no less than \$5.00/hour beginning July 1, 2020?**

	Response Percent	Response Count
Yes	70.17%	167
No	29.83%	71

**33. Did you employ dedicated human resources personnel or use a third-party benefits administrator?**

	Response Percent	Response Count
Yes	28.57%	68
No	71.43%	170

**34. Were you aware that companies operating in DC are required to offer employees paid leave for work absences associated with domestic violence in accordance with the DC Accrued Sick and Safe Leave Act of 2008 (ASSLA) or COVID-19 related reasons (temporary)?**

	Response Percent	Response Count
Yes	68.07%	162
No	31.93%	76

**35. How did your company obtain information about ASSLA/ESSLA? (Select all that apply)**

	Response Percent	Response Count
Social media	17.90%	29
Community event	3.09%	5
Webinar	19.75%	32
A D.C. Government website	46.91%	76
ASSLA ad	8.02%	13
Other (Please specify)	20.99%	34

**36. Did you make the DOES ASSLA poster, including the requirements of ASSLA and the DC Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA), available to all employees to see it?**

	Response Percent	Response Count
Yes	55.46%	132
No	44.54%	106

**37. Have you ever contacted DC Government to obtain information about ASSLA/ESSLA for learning purposes or to distribute to employees?**

	Response Percent	Response Count
Yes	3.77%	4
No	96.23%	102

**38. Why not?**

	Response Percent	Response Count
Not necessary	48.11%	51
Did not know it was possible	9.43%	10
Unfamiliar with ASSLA	10.38%	11
Other (Please specify)	32.08%	34

**39. Which of the following benefits did you offer to some or all of your employees?  
(Select all that apply)**

	Response Percent	Response Count
Paid sick days	47.48%	113
Universal Leave (PTO)	32.77%	78
Floating Benefits	21.43%	51
Bereavement	27.73%	66
Do not offer paid time off benefits	18.07%	43

**40. In 2020, how often was it necessary for your company to dock an employee's wages or benefits (or make any similar reduction)?**

	Response Percent	Response Count
0	89.50%	213
6 - 10	2.52%	6
11 - 15	0.42%	1
16 or more	3.78%	9

**41. Did you make changes to your business's leave policy in 2020?**

	Response Percent	Response Count
Yes	12.61%	30
No	87.39%	208

**42. What type of changes were made?**

30 Responses

**43. How do you believe the requirements of ASSLA/ESSLA have impacted employee performance?**

	Response Percent	Response Count
Much better	2.10%	5
Better	5.46%	13
About the same	21.85%	52
Worse	0.84%	2
Much worse	5.04%	12
Do not know	18.49%	44
Not applicable	46.22%	110

**44. What impact has ASSLA/ESSLA had on your business's employee turnover?**

	Response Percent	Response Count
Increased	1.26%	3
Decreased	6.30%	15
No impact	75.21%	179
I do not know	17.23%	41

**45. What impact has ASSLA/ESSLA had on your business's profitability?**

	Response Percent	Response Count
Increased	0.84%	2
Decreased	13.87%	33
No impact	66.81%	159
I do not know	18.49%	44

**46. Has your business put measures in place to offset any negative impact ASSLA/ESSLA may have?**

	Response Percent	Response Count
Yes	7.98%	19
No	92.02%	219

**47. What measures have you put in place to offset any negative impact ASSLA/ESSLA may have on your business?**

	Response Percent	Response Count
Reduced vacation time accrual	5.26%	1
Converted Paid Vacation Time Paid Time Off or Paid Sick Days	0.00%	0
Reduced salaries, raises, or bonuses	36.84%	7
Combination of the above	15.79%	3
None of the above	42.11%	8
Do not know/Do not remember	0.00%	0

**COVID-19 Paid Sick Leave (Business Owner Based)****48. Did you have any employees who were ordered to quarantine or isolate due to COVID-19 related exposure?**

	Response Percent	Response Count
Yes	26.16%	62
No	73.84%	175

**49. Were they allowed to use paid leave to complete their quarantine or isolation?**  
**NOTE: Quarantine period consists of two (2) consecutive weeks following exposure to the COVID-19 virus.**

	Response Percent	Response Count
Yes	90.32%	56
No	9.68%	6

**50. Did they have accrued paid leave that they were not allowed to use to complete their quarantine or isolation?**

	Response Percent	Response Count
Yes	0.00%	0
No	100.00%	6

**51. Did they continue working during the time that they were impacted by COVID-19 or would have been under quarantine?**

	Response Percent	Response Count
Yes	66.67%	4
No	33.33%	2

## Appendix B: Focus Group Questions

The following were the questions utilized during all focus group and one-on-one interviews. These questions were broken down into 4 sections. First, the facilitator focused on understanding the employee's company landscape and knowledge of ASSLA, then the conversations transitioned into usage of ASSLA and leave during 2020 and the impacts of COVID-19 at the company. To assess and understand employee's depth and knowledge of ASSLA, two statements were read. In conclusion, questions surrounding recommendations for how employees would like to learn more about ASSLA and ways to enhance their learning and experiences were posed to employees to elicit feedback for the District.

### Focus Group and One-on-One Questions Company: Your Company

1. *How does your company manage HR personnel and matters?*
2. *Does your company provide you education and educational materials on ASSLA and other materials about Leave (Paid-family leave, etc.)?*
3. *Is ASSLA, sick leave, or paid leave policies and materials visible and easy to access in company systems?*

### Personal Leave Experiences

1. *For how long were you employed in 2020? (Status)*
2. *How well versed are you about ASSLA?*
3. *Were you ever on leave due to Covid-19 or other personal matters in 2020?*
4. *Did you experience any difficulties in requesting leave under ASSLA?*
5. *Were you aware of the new changes made to ASSLA to support Covid-19 leave?*

### Two Statements:

**Let me know:** 1) If you were aware of these components of ASSLA and 2) Have you personally had this statement in support of leave or were impacted by it in some form or a case of usage by other employees at your organization?

**Statement 1:** Companies operating in D.C. are required to offer employees paid leave for work absences associated with domestic violence or abuse in accordance with the Accrued Sick and Safe Leave Act of 2008 (ASSLA) and Earned Sick and Safe Leave Amendment Act of 2013 (ESSLA).

**Statement 2:** While the amendments do not alter the amount of leave to which an employee is entitled under the Act, the Earned Sick and Safe Leave Amendment Act of 2013 does make significant changes to leave accrual, access, and retention, strengthens the Act's anti-retaliation provisions, increases enforcement mechanisms and penalties, including a private right of action, creates new recordkeeping requirements, and extends its coverage to tipped and temporary employees. As such, employers should review and revise their paid leave policies as necessary to comply with these new leave requirements.

Other Questions:

6. *Have you ever reached out to the District government in support of or filed a complaint due to issues of leave and payment? What happened? Which agency? How was it handled?*
7. *What resources, tools, or additional information would you like made available to better prepare and support you and your understanding of ASSLA?*
8. *How can these resources be most effectively communicated to you? How can it be improved?*
9. *Do you have any additional recommendations for how the District government can better support employees when it comes to ASSLA or any matters of leave and wage theft by employers?*
10. *Are there any patterns or concerns you are seeing that are common issues in your industry as it relates to ASSLA or leave in general?*

## Appendix C: Interview Questions

### DOES Questions:

#### Roles, Relationships, and Engagements with Other Agencies

1. What role does your office play in overseeing ASSLA as it relates to the law?
2. How does your agency work together with other agencies in enforcing the law and staying in compliance?
3. Describe the support you have received from agency partners.
4. What role does DOES play in enforcing ASSLA?
5. Who makes the final decision to suspend a business license over noncompliance, DCRA or DOES?
6. Does DOES/OWH have to attest to the fact that a business has remediated all problems prior to DCRA issuing a new or reinstating a business license for a company found in violation of ASSLA?
7. At what point, do you refer a case to OAG for litigation if you believe that a case of wage theft has occurred?

#### Agency Performance and Processes

8. Overall, how do you feel like you are doing enforcing the law??
9. In what ways do you engage and educate the business community?
10. What measures are in place for the District to protect worker's rights? Do you feel the District has succeeded in meeting this goal?
11. Are there any industries that have more problems than others? What are the challenges? How can they be improved?
12. Give me an example of a recent case. Who was involved?
13. Can you walk us through the process of receiving a complaint and determining what actions and next steps to take?

#### COVID-19 Enhancements

14. How have the COVID-19 enhancements impacted your workflow?
15. With the new requirements with paid emergency relief act, have you just added to your existing audits or created special audits?
16. Do you have more or less compliance during this pandemic?
17. How are you navigating enforcement or going about addressing violations? Where have you seen the most concerns regarding the enhancements?

### DCHR Questions:

#### Roles, Responsibilities, and Engagements:

1. What role does your office play in overseeing ASSLA as it relates to the law?
2. How does your agency work together with other agencies in staying in compliance?
3. Are there areas of improvement or examples of success between agencies you can share in terms of cooperation on ASSLA?
4. How does ASSLA affect DCHR employees?

### Agency Performance and Processes:

5. How do you feel overall your agency is staying in compliance with the law?
6. What measures are in place for the District to protect worker's rights? Do you feel the District has succeeded in meeting this goal?
7. Are there any recent stories of success you can share or examples?
8. Can you walk me through the process you are responsible for as it relates to ASSLA?
9. Are there any areas of performance, you would like to share or share more about the process?

### Covid-19 Enhancements:

10. How have the COVID-19 enhancements impacted your workflow?
11. Where are the greatest challenges or successes as result of these enhancements?
12. How are you navigating enforcements or go out addressing them? Where have you seen the most concerns regarding the enhancements?



DEPARTMENT OF EMPLOYMENT SERVICES  
OFFICE OF WAGE-HOUR COMPLIANCE  
4058 MINNESOTA AVENUE, NE  
WASHINGTON, DC 20019

DOES.DC.GOV | OWH.ASK@DC.GOV | (202) 671-1880